

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15479 of Timothy Pearsall and Lonnie and Mary Lee Jones, pursuant to 11 DCMR 3107.2, for a variance from the off-street parking requirements (Sub-section 2101.1) to allow a 7-room rooming house, basement through the second floor, in an R-4 District at premises 2034 North Capitol Street, N.W. (Square 3117, Lot 74).

HEARING DATE: March 27, 1991  
DECISION DATE May 1, 1991

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located on the northwest corner of the intersection of North Capitol and V Streets, N.W. It is known as premises 2034 North Capitol Street, N.W. It is zoned R-4.

2. The subject lot is rectangular in shape and contains 1,700 square feet in lot area. The rear yard is 20 feet deep.

3. The lot is improved with a large three-story plus cellar rowhouse built in 1900. The footprint of the house occupies 1,360 square feet, over 80 percent of the lot area. A public alley abuts the property to the rear. To the south of the property is an adjacent lot that is also developed with a three-story rowhouse.

4. The subject structure is currently used as a residence for about nine persons. The applicants propose to use the property as a seven-room rooming house. Pursuant to 11 DCMR 2101.1, the number of parking spaces required is as follows: "1 plus 1 for each five rooming units". For the proposed use, two parking spaces would be required. However, the applicants are requesting a variance from the parking requirement. The applicants testified that parking spaces cannot be created at the rear of the property because the grade of the rear yard is about seven feet above the grade of the alley that abuts the property. There is also a retaining wall that extends across the rear portion of the property. Because of the wall and the difference in grade, cars would not be able to access the property to park.

5. One of the applicants testified that only one tenant currently residing in the house owns an automobile. He also stated that he is willing to rent only to tenants who do not own an automobile.

6. The Office of Planning (OP), by memorandum dated March 20, 1991 and through testimony at the hearing, recommended approval of the application. OP stated that the property is located in an R-4 District. The area surrounding the subject site is characterized by two and three-story rowhouses, some of which have been converted to flats.

OP stated that the level of the rear yard is approximately 12 feet higher than the alley surface. Therefore, there would be no accessibility to the rear yard of the property. OP also stated that the adjacent lot to the south is improved with a three-story rowhouse. Therefore, the applicants cannot increase the size of their property. OP believes that these factors create a practical difficulty for the owner.

OP stated that there is ample space available in the area for on-street parking, especially along V Street. Also the property is in an area that has a residential permit parking program. Furthermore, the area is well-served by metrobus routes along North Capitol Street, Rhode Island Avenue and Michigan Avenue, N.E. Rhode Island Avenue is located two blocks to the south of the subject site and Michigan Avenue is located five blocks to the north.

OP stated that the proposed rooming house would house a total of seven individuals which is less than the number of residents the property could conceivably house if it were used as a single-family residence.

Due to the availability of on-street parking spaces and the number of residents the subject property is proposed to house, OP concluded that the proposal would not have adverse area impacts and could be granted without impairing the intent, purpose and integrity of the R-4 District regulations and the zone plan for the City.

7. The Department of Public Works (DPW), by memorandum dated March 13, 1991, stated that North Capitol Street is a designated Snow Emergency Route with restricted parking on the west side of the street from 7:00 a.m. to 9:00 p.m., Monday through Friday. Residential permit parking is provided on both the north and south sides of V Street from 7:00 a.m. to 8:30 p.m., Monday through Friday. DPW stated that the site is located in an area with ample available on-street parking. The site is directly served by metrobus routes 80 and 81 along North Capitol Street and routes G4 and G6 along Rhode Island Avenue. From a transportation perspective DPW is of the opinion that the requested variance will have a negligible impact on the parking supply in the area. Therefore, the Department of Public Works has no objections to the request.

8. By letter dated February 22, 1991, the Metropolitan Police Department (MPD) stated that it does not appear that the change proposed by this application will affect the public safety in the immediate area or generate an increase in the level of police services now being provided. Accordingly, the Police Department does not oppose this application.

9. By letter dated March 18, 1991, Advisory Neighborhood Commission (ANC) 5C stated that at its regular monthly meeting of March 12, 1991, the subject application was entertained. However, no one representing the applicants appeared at the meeting to present the application to the ANC. Consequently, several concerns raised by the ANC and area residents remained unanswered. Therefore, ANC 5C voted to oppose the application. In its report, ANC 5C did not set forth the issues and concerns raised at its monthly meeting.

10. No other persons or entities appeared at the hearing in support of the application.

11. A neighbor residing at 1735 1st Street, N.W. testified in opposition to the application. He indicated that he is president of the Bloomingdale Civic Association which is in the area of the subject property. He testified that the civic association opposes the application because there is inadequate space for parking in the area. This is especially true during rush hour when there is no parking on North Capitol Street and most people park along V Street. He further testified that, although there is residential permit parking in that area, it is not enforced.

The neighbor further testified that the area residents also oppose the application because they generally oppose the idea of placing rooming houses in their neighborhood. They are attempting to improve the area with more affordable single-family houses. They wish to discourage rooming houses because a number of former rooming houses in the area are now boarded up. This is because tenants did not take care of the properties. The community wishes to convert these boarded up buildings into affordable housing.

12. A neighbor residing at 41 V Street, N.W. also testified in opposition to the application. She testified that the subject property was formerly used as a single-family home and that she does not think it was a licensed rooming house.

She testified that she has lived in the area about 40 years and the area residents are trying to keep the neighborhood beautiful. She testified that different roomers of rooming houses do not care for property the way that homeowners do. She stated that with single-family residences there would be more of an interest in the upkeep of the neighborhood.

Finally, this opposing neighbor testified that she was unaware that rooming houses were permitted as a matter-of-right. She expressed a concern that few owners of rooming houses are on the premises to manage the home and monitor the people that live there.

13. Responding to the concerns about managing the home, one of the applicants testified that he will not reside at the premises but that he would make his phone number available and he would be glad to work with his neighbor.

14. At the end of the public hearing the Board left the record open to allow the parties to meet to discuss issues related to the management and operation of the rooming house and to submit a report on the meeting. However, none of the parties submitted a report to the Board.

**FINDINGS OF FACT:**

1. The Board finds that for the applicants to provide parking would require excavation because of the substantial grade difference between the alley and the rear yard of the property.

2. The Board finds that there is adequate space on neighborhood streets to accommodate any parking needs of the proposed rooming house.

3. The Board finds that roomers will most likely not have automobiles.

4. The Board finds that a rooming house is permitted as a matter-of-right in an R-4 District. The property's use as a rooming house is not an issue before the Board. The issue before the Board is whether the subject property can accommodate the required off-street parking.

**CONCLUSIONS OF LAW AND OPINION:**

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicants are seeking a variance from the parking requirements to allow a seven-room rooming house in an R-4 District. Granting such a variance requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan. The Board concludes that the applicants have met this burden of proof.

The Board concludes that the difference in grade between the alley and rear yard is an exceptional condition which creates a practical difficulty for the owners in their effort to provide two on-site parking spaces in compliance with Section 2101.1 of the Zoning Regulations.

In the Board's opinion, it is unlikely that many of the roomers will have automobiles. Therefore the Board concludes that the proposed rooming house use will not adversely impact the parking conditions in the area. The Board is further of the opinion that the applicants are willing to work with the area residents to ensure that the rooming house is managed in a manner acceptable to the community. Therefore, the Board concludes that the proposed use will not be of substantial detriment to the public good.

The Board concludes that the proposed use is permitted as a matter-of-right in the R-4 District. The Board further concludes that since the rooming house use will have minimal impact on the neighborhood, the variance can be granted without substantially impairing the intent purpose and integrity of the zone plan.

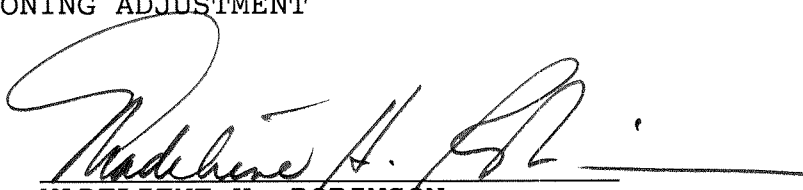
The Board concludes that because ANC 5C did not set forth the issues and concerns as required by 11 DCMR 3307.1(e), its report is not entitled to "great weight".

In light of the foregoing, the Board hereby **ORDERS** that the application is **GRANTED**.

VOTE: 3-0 (Sheri M. Pruitt, Paula L. Jewell and Carrie L. Thornhill to grant; John G. Parsons abstaining by proxy; Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
MADELIENE H. ROBINSON  
Acting Director

FINAL DATE OF ORDER:

JUN 26 1992

BZA APPLICATION NO. 15479  
PAGE NO. 6

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15479Order/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15479

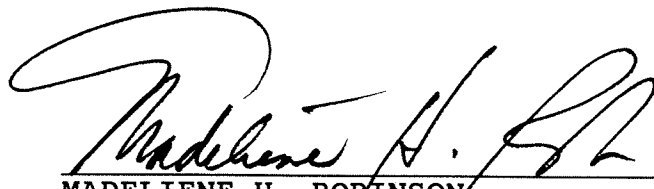
As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUN 26 1992 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Timothy Pearsall  
6419 9th Street, N.W.  
Washington, D.C. 20012

Tony Norman  
1735 First Street, N.W.  
Washington, D.C. 20001

Mary T. Williams  
41 V Street, N.W.  
Washington, D.C. 20001

James D. Berry, Jr., Chairperson  
Advisory Neighborhood Commission 5-C  
1723 - 3rd Street, N.E.  
Washington, D.C. 20002

  
MADELIENE H. ROBINSON  
Acting Director

DATE: JUN 26 1992

15479Att/bhs